

PATENT COOPERATION TREATY


PCT

PCT Application
PCT/CN2004/000938



INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference CNB1U0400017		FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/CN2004/000938		International filing date (day/month/year) 12. Aug. 2004 (12.08.2004)		Priority date (day/month/year) 15. Aug. 2003 (15.08.2003)
International Patent Classification (IPC) or national classification and IPC IPC⁷ A23G3/00				
Applicant EFFEM FOODS (BEIJING) CO., LTD et al				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>2</u> sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic _____, containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand 15. Mar. 2005 (15.03.2005)		Date of completion of this report 01. Dec. 2005 (01.12.2005)		
Name and mailing address of the IPEA/CN The State Intellectual Property Office, the P.R.China, 6 Xitucheng Rd., Jimen Bridge, Haidian District, Beijing, China 100088 Facsimile No. 86-10-62019451		Authorized officer ZHANG Xin  Telephone No. 62085275		

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International application No.
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Box No. I Basis of the report

1. With regard to the language, this report is based on:

- ☒ the international application in the language in which it was filed
- ☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rules 12.3(a) and 23.1(b))
- ☐ publication of the international application (Rule 12.4(a))
- ☐ international preliminary examination (Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages _____ 1-7 _____ as originally filed/furnished
- pages * _____ received by this Authority on _____
- pages * _____ received by this Authority on _____
- ☒ the claims:
- pages _____ as originally filed/furnished
- pages * _____ as amended (together with any statement) under Article 19
- pages * _____ 8-9 _____ received by this Authority on 28. Jul. 2005 (28.07.2005)
- pages * _____ received by this Authority on _____
- ☒ the drawings:
- pages _____ 1 _____ as originally filed/furnished
- pages * _____ received by this Authority on _____
- pages * _____ received by this Authority on _____

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/CN2004/000938**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement:**

Novelty (N)	Claims	1-8	YES
	Claims		NO
Inventive step (IS)	Claims	1-8	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-8	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)**Novelty**

The prior art does not disclose the subject matters of claims 1-8. Therefore, they are considered to be novel under the terms of Article 33(2) PCT.

Inventive step

CN2174851Y, which is considered to represent the most relevant state of the art, discloses (see line 16, page 1 - line 6, page 2) a confectionary comprising a center and a shell. And the said shell contains several layers whose color, taste and mouthfeeling is different. Compared with the document, claim 1 has the difference that at least one domain contains sugar-free sweetening agent, and the domains of different characters have different fineness of crystals, and the fineness of adjacent domains vary from each other. However, the prior art does not give the taught of applying above mentioned techniques to obtain different taste and mouthfeeling. So it is non obvious for the person skilled in the art to reach the technical proposal of claim 1. Since claims 2-8 are dependent on claim 1, they are considered to be non obvious. Therefore claims 1-8 involve an inventive step under the terms of Article 33(3) PCT.

Industrial applicability

The subject matters of the claims 1-8 appear to be industrially applicable under the terms of Article 33(4)PCT., because the confectionary claimed can be made industrially.